

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In Re *Ex Parte* Application of
Path Network, Inc., and Tempest Hosting,
LLC,
Applicants.

Case No. [23-mc-80148-PHK](#)

**ORDER SETTING DEADLINES RE
SERVICE AND CONSENT OR
DECLINATION TO PROCEED
BEFORE A UNITED STATES
MAGISTRATE JUDGE**

Path Network, Inc., (“Path”) and Tempest Hosting, LLC, (“Tempest”) (collectively “Applicants”) have filed an *ex parte* application for an Order pursuant to 28 U.S.C. § 1782 authorizing service of a subpoena for documents on Discord, Inc., (“Discord”). This application is made in connection with an action pending in the Superior Court of Justice in Ontario, Canada.

This application requires a case-dispositive decision, and absent consent of all parties, this Court lacks jurisdiction to hear and decide this matter. 28 U.S.C. § 636(c)(1); *CPC Pat. Techs. Pty Ltd. v. Apple, Inc.*, 34 F.4th 801, 808 (9th Cir. 2022) (orders under 28 U.S.C. § 1782 are reviewable as final decisions “because, unlike an ordinary discovery order that is just one step in an ongoing federal case, . . . there is no further case or controversy before the district court”); *Williams v. King*, 875 F.3d 500, 500 (9th Cir. 2017). Counsel for Applicants have represented that they have communicated with Discord to request that Discord preserve certain requested data and that Discord has declined to do so unless legally obligated to do so. [Dkt. 1-1].

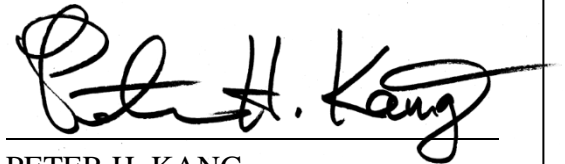
Applicants shall serve a copy of their as-filed application (including their proposed Order and proposed subpoena) and this Order on Discord by **June 14, 2023**. Applicants are further directed to communicate with counsel for Discord and request that Discord timely file with the Court

1 a “Consent or Declination to Magistrate Judge Jurisdiction” form indicating whether Discord
2 consents to or declines Magistrate Judge jurisdiction in this matter. The form is available at:
3 https://cand.uscourts.gov/mj_consent-declination_form_10-2020/. Discord shall have until **June**
4 **28, 2023**, within which to file a “Consent or Declination to Magistrate Judge Jurisdiction” form
5 indicating whether Discord consents to or declines Magistrate Judge jurisdiction in this matter. Any
6 party is free to withhold consent to proceed before a Magistrate Judge without adverse substantive
7 consequences. Fed. R. Civ. P. 73(b)(2).

8 Applicants have consented to Magistrate Judge jurisdiction in this case. [Dkt. 3]. The Court
9 will order the Clerk to reassign this matter to a district judge if the Court does not have consent of
10 Discord on or before **June 28, 2023**.

11 **IT IS SO ORDERED.**

12 Dated: May 31, 2023



PETER H. KANG
United States Magistrate Judge